

LONG SESSION ENDS IN ANDREWS TRIAL

Proceedings in Case to Continue Today

The perjury trial of Dean A. Andrews was adjourned until 10 a. m. Saturday after a marathon courtroom session Friday which saw the jury ordered out of the courtroom so arguments could be heard on whether Andrews' testimony before the Orleans Parish Grand Jury was given voluntarily.

The adjournment came at 9:20 p. m. some 12 hours and 20 minutes after the case entered its third day in the court of Criminal District Judge Frank J. Shea.

Andrews is on trial for allegedly making perjurious statements before the Grand Jury in connection with the jury's inquiry into the presidential assassination plot alleged by District Attorney Jim Garrison.

The jury was ordered out of the courtroom shortly before 5 p.m. by Judge Shea so arguments could be heard on whether Andrews' testimony before the Grand Jury was given voluntarily.

ANDREWS ON STAND

Taking the stand in his own behalf, Andrews said he was emotionally upset when he appeared before the Grand Jury. Only minutes before, he said, he had been handed a subpoena to appear which made him "anxious and angry."

Andrews maintained he was walking up the courthouse steps to testify voluntarily when he was served with the subpoena. He said this action upset him to the point that he was unsure what went on during the Grand Jury proceedings.

Additional troubles — loss of his job and a hungry family — compounded his highly emotional state that day, Andrews said.

Under questioning by Assistant DA James Alcock, Andrews admitted he had heard a rumor

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that he was to be arrested that day, Andrews said when he was handed the subpoena, he thought at first it was an arrest warrant.

Alcock and Burnes, another assistant DA, also took the stand in turn, questioning each other about the circumstances of Andrews' appearance before the Grand Jury which led to his perjury indictment.

GAVE WARNING

Alcock said he had briefed Andrews on his constitutional rights before he testified and warned him that if he lied he would be charged with perjury.

Burnes told the court that Andrews had originally sent word to the district attorney's office that he wanted to appear voluntarily before the Grand Jury. But in the late afternoon on the day he was to appear, Andrews sent word he was backing out. Burnes said. As a result, a special subpoena was prepared to bring Andrews before the jury, he added.

Albert N. LaBiche, Grand Jury foreman, took the stand and said that the first move to testify came from Andrews.

LaBiche recalled that Andrews wanted to appear, but that a subpoena was issued to make it official.

Two state policemen also testified about a reported conversation which took place April 12 between the pair and Andrews in a Bourbon St. night club.

MET BY CHANCE

Sgt. John J. Eucola and Lt. Thomas E. Cavan said they met Andrews by chance and engaged in a 36-minute casual conversation.

The policemen later signed statements about the conversation for the district attorney's office.

Defense counsel argued, however, that the Andrews statement was inadmissible in that it was made without benefit of counsel and without his being advised of his constitutional rights by the two policemen.

The jury was called back to

the courtroom as a witness, and the witnesses' testimony was repeated for its benefit. The jury was closed for the night at the Fontainebleau Motor Hotel.

At one point, the prosecution offered portions of Warren Commission testimony for state exhibit purposes.

But the stenographer who took down Andrews' testimony July 21, 1964, failed to recall most of Andrews' statements given to the investigatory body.

Mrs. Monica Gray Super said her independent memory could tell her only the portion of the testimony in which Andrews said he saw a Clay Bertrand run from him when he recognized Andrews in a bar.

Andrews told the Warren Commission that Clay Bertrand called him and asked him to defend Lee Harvey Oswald, accused assassin of President John F. Kennedy.

Burnes asked the court to take judicial notice of presidential executive orders creating the Warren Commission and cited three cases in which state courts took such notice of federal acts. This means he sought to have certain parts of Andrews' testimony entered as prima facie evidence.

DEFENSE OBJECTS

Defense attorney Harry A. Burglass objected on grounds that the Warren Commission publications constitutes hearsay and no cross examination was possible and that, from previous testimony of a witness, original notes of the July 21, 1964, testimony were lost.

Burglass contended "A foundation should be made beyond this."

Judge Shea overruled, and the defense filed for a bill of exception.

Following the prosecution's opening statement, which rested on its "theory of the case" as contained in five counts of alleged perjury by Andrews, the district attorney's



—Photo by The Times-Picayune.
EUGENE C. DAVIS
Bartender called as witness.

office said it would seek to present the evidence to obtain a guilty verdict on each count.

DISMISSAL ASKED

The defense then moved for dismissal of the case on the grounds that the DA's office has failed to establish materiality of allegations made in the five counts which relied on "inconsistent statements made prior to the Grand Jury hearings."

Burglass contended that the state failed to show that statements made at the time of the hearing were incorrect and it is merely claiming they are different from other alleged statements made at other times.

The court ruled against dismissal, and the defense filed again for a bill of exception.

Others called to the witness stand for various identification of state exhibits and other purposes were Judge Bernard J. Bagert Sr., who convened the Grand Jury; LeBlanc, Grand Jury Foreman; Matthew Tinsley, Grand Jury Stenographer; Daniel E. Haggerty, administrative assistant to the clerk of Criminal District Court; L. M. J. Kerne, desk sergeant for the Jefferson Parish Sheriff's office.

Regis L. Kennedy, Federal Bureau of Investigation agent who questioned Andrews after the Kennedy assassination; Marvin B. Donn, a court reporter for the firm that took the stenographic notes for the War-

ren Commission testimony here, and Thomas L. Clark, who Sgt. Kerne said was paroled at the request of the late David W. Ferrie by Andrews, then a Jefferson assistant DA.

Ferrie was one who had been singled out by Garrison as a participant in the alleged plot to kill Kennedy.

Selection of the five-man jury and an alternate took three hours. It began at 10:30 a. m. and ended at 1:20 p. m. Of the 81 names on the prospective jury list, 27 were called. Four were absent and seventeen were excused from duty or were rejected by either side.

The following were chosen as jury members: William E. Bailey, 320 Pelican ave., Algiers; Greyhound bus mechanic; Joseph L. LaPierre, 4435 De Bore dr., New Orleans; Negro postman; Walter T. Miklaus, 827 Atlantic ave., Algiers; yardman for Southern Pacific Railroad; Henry R. Nuss, 8305 Nelson st., a gas operator for Union Carbide; and Leslie J. Roussel Jr., 8230 Foreney, New Orleans, a sales representative for New Orleans Public Service.

James S. Boudreaux Sr., 627 Abundance st., New Orleans, a Negro mail carrier, will serve as alternate.

Thomas S. Abernathy, 322 N. Roman, was chosen as original juror, but he later asked to be excused on grounds he has to take an exam Saturday. Abernathy, who works for a small loan office, was then recused by Judge Shea.

Nuss was selected to replace him despite objections from the defense, who maintained that

Boudreaux, the alternate juror, should have been put on the regular jury and a new alternate picked.

ADMITS OPINION

Nuss created a slight stir in the courtroom when, in a direct questioning, he admitted having formed an opinion in the Andrews case. He did not say what his opinion was, but when questioned by Judge Shea, he said he felt he can hear the trial objectively. A defense objection to Nuss was then overruled by Judge Shea. The state earlier approved Nuss's selection.

Judge Shea called a 15-minute recess after the jury was selected to enable movement of the proceedings to a smaller courtroom on the

third floor. Only witnesses and accredited journalists were admitted into the trial courtroom.

Five-man juries, under Louisiana law, try non-felony cases. Perjury is a high misdemeanor in Louisiana, punishable by a maximum of five years in prison.

The trial got under way at 1:47 p. m. with a motion for mistrial by Andrews. He contended that a "seed" was planted in the jury's mind when Asst. District Atty. James L. Alcock approached the bench and told Judge Shea:

"I herewith deliver to you copies of incriminatory statements made by the defendant." ("Incrimulatory" means statements not in the best interests of the defendant, such as a confession.)

MOTION DENIED

The judge denied the mistrial motion, although three jurors admitted having heard Alcock make the remark. The judge asked them to disregard what occurred in opening statements of the trial.

Defense attorney Harry Burglass said he was reserving a bill of exceptions for a possible appeal. The judge then had the record show that the three jurors heard the remark and said that it will not influence them.

Andrews was questioned about statements he made to the Warren Commission that a "Clay Bertrand" telephoned him following President Kennedy's death and asked him to fly to Dallas and represent accused assassin Lee Harvey Oswald.

Garrison claims that Clay Bertrand is an alias used by Clay L. Shaw, retired New Orleans businessman under indictment on charges of conspiring to murder President Kennedy. No date has been set for Shaw's trial.

Andrews has insisted that Shaw is not Bertrand.

OFFERS MOTIONS

Burglass, who took over the defense from Andrews, offered three motions to Judge Shea Friday morning, prior to the jury selection.

These motions, all quickly denied, included an oral request to be allowed to file a motion to suppress evidence (specifically testimony given by Andrews to the grand jury); a motion to file further evidence (the Warren Report); in the hearing tooust Garrison and

his staff from prosecuting the case, and a few and amended motion to quash the indictment against Andrews.

Friday's courtroom activity got under way at 9 a. m. Judge Shea rejected Andrews' original motion for recusal of Garrison and his aides. Arguments on this motion consumed the first two days of the trial.

Surprisingly, Andrews rested his case shortly after court opened. He had been expected to call additional witnesses on the recusal motion. But asked instead for an immediate ruling.

Burglass took over for Andrews after Judge Shea rejected the motion. Andrews acted as his own defense attorney during the first two days.

Judge Shea denied Burglass' motion to suppress evidence on grounds that the defense did not give the bench 72 hours' notice as required.

On the motion to quash, Burglass argued the indictment was not clear and that Judge Shea did not have jurisdiction in the case, presumably on grounds that some alleged activity occurred outside Orleans Parish.

In a related development, Eugene Davis, a French Quarter bar owner, said his attorney, G. Wray Galt, will file a suit Friday against a broadcasting medium because of treatment Davis received in news reports. Davis has been called as witness in Andrews' perjury trial.

Also appearing in the courtroom Friday was Perry R. Russo, Garrison's key witness in the Kennedy probe. Russo was subpoenaed by Andrews in early Friday, but he was not called.

Between court recesses Friday, Andrews had a few choice words for the press. "I hope to put something loose some time," he said. "The fat man's

got to go to the whip today."

At one point, Andrews appeared to be crying behind sunglasses he always wears.

Most patters got more than I've got," he said. "I've had good times. It's been fun, but not lately."

Andrews said he is broke, his job gone and his law practice dwindled away.